

Arizona Department of Education
Exceptional Student Services
C O LAMP
Due Process Hearing Officer
9441 W. Hutton Drive
Sun City, AZ 85351-1461
Phone 623 939-6825

Reference No. 04-024

Child A v. Liberty Traditional Charter School:

DECISION

This matter came on for Due Process Hearing beginning at 9 A.M. on Monday, April 19, 2004 at Liberty Traditional Charter School located at 4027 N. 45 Avenue, Phoenix, Arizona. Impartial Due Process Hearing Officer C O Lamp presided. Attorney Jerry L. Colglazier represented the school. The mother of the child appeared *in propria persona*. The father of the child and the child were present. Also present were the school principal, the director of special education and witnesses on behalf of the school.

A verbatim record of the hearing was taken down by Janet Hauck of the Glennie Reporting Services, L.L.C.

The first issue to be determined, does Child A have a disability qualifying under the guidelines of IDEA? Based on the testimony of the mother and Exhibit Number A, which is an IEP dated May 24, 2001, I find that Child A was a child with a disability under the umbrella of IDEA as late as fifth grade while at Learning Crossroads and deserves the protection of the Act. This was the last time that the child had access to Special Education classes.

No evidence was presented that the child's condition has changed.

However, by the time the child enrolled in [REDACTED] at Terra Nova school, the mother was so insistent that [REDACTED] be mainstreamed that she was not forthcoming and embarked on a plan of systematic denial that the child was a Special Education Child. For all intents and purposes this resulted in the child being exited from Special Education.

Melinda Brown, Special Education Coordinator for liberty Traditional Charter School testified that she contacted Terra Nova Academy and was told the child was not involved in Special Education. See Exhibit 10, item 8. See also Exhibit 11 wherein a box to be checked for Special Education was deliberately left blank two times by the Mother. On the second page of the same exhibit, the Mother checked that the child had no serious illness (Number 1) and had no disabilities (number 5). I find as a fact that the staff at Liberty Traditional Charter School had no reason to believe that Child A was a child with a disability under IDEA until recent date.

Accordingly both motions to dismiss are denied.


Recently the current school began an evaluation. It is Ordered that the evaluation of Child A proceed as rapidly as possible and a determination be made as to whether or not [REDACTED] is a child with a disability under IDEA, which is likely, and if that be the case a new IEP be prepared at once.

On the issue of unfairness to the child by an instructor, the Mother testified that this had been limited to a Mr. Martinez. She also stated that the child has now been removed from all his classes. Thus, this issue is moot.

Signed this 20th day of April, 2004.


C O Lamp, Due Process Hearing Officer

Copy of the foregoing mailed this date to
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Original order mailed to
Special Ed Dispute Resolution Unit
AZ. Dept. of Education